App F IX 4

Previous References ml 1944-45 (1-2)

1947 48 (ml)

File No 6-46

Serial Nos 23, 24

Later References.

GENERAL AND REVENUE SECRETARIAT

Serial Nos 710

Part B for July 47

SUBJECT

— B. S. No 20/42-43 on the file of the Subordinate Judge Itarsan.

R 1361 & 227-47

D.C. Itarsan.

Direct that the bill of the Govt Pleader may be paid from the Court Fund. and the amount of cost be covered and credited to the Municipality.

OFFICE OF THE

File No
Current No

of 194

Subject in brief

Received on

From

Worked up and submitted on

NOTES AND ORDERS

Do Letter No 175 dated 8th September 1946 from the Govt. Pleader, myself forwarding a certified Copy of the judgment in RA 2579 44-45 & stating that the appeal has been dismissed with the second Respdt's Costs and requesting this Ctee (Legal Remuneration Committee of Costs) for payment

1) I invite kind reference to Letter No L 1132/ML 144-45-2 dated 15th August 1945, Copy of which was forwarded to me for information wherein it is stated that the entire Costs incidental to this appeal has to be charged to the funds of the Arbikere Town Municipal Council

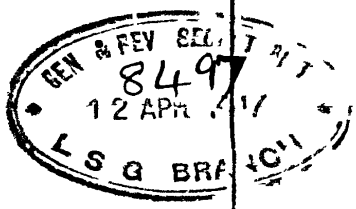
2) As the Govt. Pleader has informed in his letter (placed below) that the appeal has been dismissed with my Costs and has claimed the amount due to him, namely Rs 150 + Rs 5-1-0 I request that necessary arrangements may be kindly made to pay the claim of the Government Pleader

3) The legal remembrance

Note – Contn Sheet

bill and the bill of Costs of the Govt
~~Pleader~~ as also a copy of the Judgment
in R.A 257/44-45 received from the
Govt Pleader are flown hereto for kind
reference

Asst. Secy
L S G w/c)



Sd/-
10/4/47

Mr Srinivasan (PC)
for
11/4/47

~~The main for has been separated~~

4) The connected main file is headed Letter no L 1132/mil 144-45-2 dated 15 8 45 referred to in para 1 above wherein it is stated to have been ordered that the entire cost chargeable to the Travancore Town Municipal Council is not traceable

5) A draft letter calling for a copy of the letter is put up for approval or other orders

Sd/-
21/5/47.

6) For appl

new secy for
3/5/47

7) [illegible]

8) Submitted
for
3/5/47

Dy
The Secy. S.P.C
No L 15756 dt 16 5 47
Calls for information

7 MAY 1947

(1849) 9658/L

From

The Secretary- S P C

No. S P C 31349 dated 28 5 49

Forwards a copy of Letter No L 1132/ml 144-45-2 dated 15 8 45 as called for

flag A Hdq Alof A Zinn

1) The Letter referred to above authorises the Aranmula Municipality to pay from the funds the entire cost incidental to this appeal

10) In pursuance of the above directions of Govt. Mr D S Raghavendrachar, now the Secretary, S P C has forwarded the Bills of the Govt Pleader Mysore for Rs 150-0-0 + Rs 5-1-0 to arrange for payment of the Same by the Aranmula Municipality

11) It is seen from the Copy of the Judgement enclosed that the appeal of Mr K Narasimhaiah has been dismissed with costs, the court directing the appellant-plaintiff to pay Rs 150/- to each of the Respondent-defendants

12) As the Municipality pays the Bills of the Govt Pleader the cost to be paid by K Narasimhaiah as awarded by the Court to be credited after Recovery to the funds of the Municipality

13) Sd/- for orders

Pl print as Ml No 144-45-2 and Ml with 148-43-6

12/6/49

9658/L

Collection file no 146-45-2 is put up. The other Collection no 148-43-6 is not available (Requisition slip enclosed)

Submitted for orders

Re 14/6/47

Pl put up a draft letter to the D.C. Hassan with a copy of the letter of the Govt regarding payment to the Govt Pleader, Mysore, out of the funds of the Provincial Treasurer to have the amount received from the Municipality credited to the Govt

K. Narasimha Raj

Draft letter to the D.C. Hassan put up for approval

Re 27/6

New Reg / 27/6/47

Draft put up is forwarded before issue — The remuneration & cost claimed by the Govt Pleader will have to be paid out of the Municipal funds of Arsikere Municipality as has already been ordered — The amount to be recovered from K Narasimha Raj will have to be credited to Govt funds

Minister for Rev & Com

17/7/47 17/7/47 3/12/47

MINISTER
REVENUE
No. 215
Date 4.7.47

763/177

Dy

No Dy. Collector Harnai Dt.
No L 1361 Dt 22-7-47

~~Directs that the~~

Directs that the bill of the Cart
Mears may be paid from the amount
Lewis + the Court award of Cost Recov
and credited to the municipality

B. after filing
registered A/D
No 24/7/47

175

OFFICE OF THE GOVERNMENT PLEADER
MYSORE

Order copy,
L R Bill &
exp Bill,

Dated 8th Sept 46 *194*

From

The Government Pleader,
MYSORE

To

D S Raghavendrachar, Esq , M Sc
Secry Stores Purchase Committee,
United India Buildings, Bangalore

11/9/46

Dear Mr Raghavendrachar,

xxx I enclose herewith certified copy of the judgment in R A 257 of 44-45 in which you are the second respondent As you can see from the judgment, the appeal has been dismissed, with your costs Enclosed, you will also find my Legal Remuneration Bill and Bill of costs incurred I request you to kindly arrange payment of the amounts due to me, Rs 150/- plus Rs 5-1-0, as early as possible

Thanking you,

Yours sincerely,

T. Ramaswamy

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No L-1132-ML 144-45-2.

General and Revenue Secretariat,
Dated Bangalore, 15th August 1945

From

The Additional Secretary to the Government of
His Highness the Maharaja of Mysore,

To

The Deputy Commissioner,
Hassan District

Sir,

Subject - C S No 20/42-43 on the file of the Subordinate Judge, Hassan (K Narasimha Setty -Vs- Arsikere Town Municipality) 2 D S Raghavendrachar)

I am directed to invite reference to this office letter No 6647/M1-148-43-6 dated 4th January 1945, directing that the entire expenditure in connection with the above case be met out of the funds of the Arsikere Town Municipality, and to state that an appeal is said to have been filed by Mr Kolla Narasimha Setty in the Court of the District Judge, Mysore, against the judgment of the Additional Subordinate Judge, Hassan, dismissing the appellant's suit against the respondents I am to add that the entire cost incidental to this appeal has also to be charged to the funds of the Arsikere Town Municipality, as was done in the case of the original suit filed before the Additional Subordinate Judge, Hassan. The Municipal Council may kindly be informed accordingly and the necessary funds placed at the disposal of the Government Pleader, Mysore

A report of action taken may kindly be submitted to Government early

I have the honour to be
Sir,
Your most obedient servant

Sd/- J B Mallaradhya

Additional Secretary to Government

'Copy

Secretary,
Stores Purchase Committee

THREE ANNAS

IN THE COURT OF THE DISTRICT JUDGE, MYSORE DIVISION.

C R 18,
MvTR appeal
Errors
1949

Mysore, Dated the 30th day of June 1946

Present L Venkataramanayya, Esqr , B A ,B L ,

District Judge

Regular Appeal no 257 of 1944-45.

Appellant (Plaintiff) Mr Kolla Narasimha Setty, son of Kolla Kenchayaya Setty, aged about 48 years, Vaishya by caste and merchant by profession, resident of Arsikere Town

(By Mr S Chinnaswami Chetty)

Versus

Respondents (Defendants) 1 The Town Municipal Council Arsikere

2 Mr D S Raghavendrachar, son of Mr D Srinivasachar, aged about 33 years, Madhava Brahmin, at present working as Secretary, Stores Purchase Committee, Bangalore

1st respondent by Mr B Ramaswamiah
2nd respondent by Mr. T. Rangaswamiengar

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Appeal against the judgment and decree dated 31/1/45 of the additional Subordinate Judge of Hassan in O S no 20 of 1942-43

Suit for recovery of Rs.3000/- as damages for malicious prosecution of the appellant-plaintiff in C C no. 108 of 1940-41 on the file of the Special First Class Magistrate, Hassan

The issues were -

1) Was the complaint in Criminal case No 108 of 40-41 on the file of the Special First Class Magistrate, Hassan, filed maliciously and without reasonable or probable cause?

2) To what damages if any is plaintiff entitled?

3) Is not the suit as brought maintainable?

4) Has this court no jurisdiction to entertain this suit?

5) Is the suit barred by time?

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THREE ANNAS
THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE
ಮುದ್ರಾಂಕ ಚೀಟಿ

6 To what reliefs are parties entitled?

The court of first instance dismissed the suit

Memo of appeal was presented on 31/1/3/45

This appeal coming on for hearing on 29/6/46 the court prorounced the following -

Judgment

This is an appeal against the judgment and decree of the Additional Subordinate Judge, Hassan in Original Suit no. 20 of 1942-43, dismissing the suit for recovery of Rs.3000/- as damages for malicous prosecution of the appellant in Criminal Case no 108 of 1940-41 on the file of the Special First Class Magistrate, Hassan The appellant was the Vice-President of the Town Municipal Council, Arsikere in 1939 and 1940 The second defendant was the Amildar of Arsikere Taluk and Ex-Officio President of the Municipality

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THREE ANNAS
THE MAHARAJA OF MYSORE

The second defendant, as President of the Municipality, sent a complaint to the Police Inspector, Arsikere as per Exhibit II alleging that the appellant had taken a water connection from the pipe line through which the water in the possession of the Municipality was running from the main distribution line without the permission of the Municipality and without - intimating to the Municipality and that accordingly his act amounted to theft and requested that necessary action may be taken in the matter The Police, after making investigation into the matter, filed a charge sheet against the appellant in C C no 108 of 40-41 for an offence under Section 379 I P C before the ~~First~~ Special First Class Magistrate of Hassan. The learned Magistrate convicted the appellant for the offence of theft and sentenced to pay a fine of Rs.60/- or in default ~~of~~ to suffer two

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enquiring as to whether the Municipality was the owner in possession of the water and without making a thorough enquiry or even without placing the matter before the Municipal council. He alleged that there was no reasonable or probable cause for the complaint and that the charge of theft levelled against him was false to the knowledge of the second defendant and malicious The learned Additional Subordinate Judge, Hassan, came to the conclusion that the plaintiff utterly failed to establish any malice or want of reasonable and probable cause in either of the defendants in launching the prosecution against him and dismissed the suit with costs Hence, this appeal

2 The main question for determination in this case is whether the complaint in Criminal Case no 108 of 40-41 on the file of the Special

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THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE
THREE ANNAS

being the plaintiff himself The president ordered that Rs.6/- should be recovered in advance and that work should be got executed by the licensed plumber alone The work was executed by the licensed plumber P W 1 The pipe line from the main sub-line to Siddaramappa's house had to pass through the compound of the house where the plaintiff lived i e Door no 182 The same plumber also installed pipe line and taps to the house of the plaintiff He prepared only one bill for the entire work as per Exhibit B series i e for the connedtions laid to Siddaramappa's house Door no 183 and the pipe connections laid to the plaintiff's house i e Door no. 182 For laying a pipe line and fixing taps no permission of the Municipality is needed It is only for taking water into the pipe line permission has to be obtained from the Municipality The plaintiff did not apply

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apply for permission from the Municipality On 14/10/40 it was noticed by the Bill Collector of the Municipality D W 1 Shivalingiah that from a tap put in the back-yard of the plaintiff's house there was water flowing On finding that there was no dakhla for Door no 182 (the plaintiff's house) in the Municipality for having obtained permission for a connection, he made a report Exhibit I The President of the Municipality the second defendant made an inspection of the spot, formed an opinion that the plaintiff had taken unlawful water connection to his house (vide Para 5 of the plaint) and sent a complaint to the Police for taking needful action under Section 179 I P C for theft of water as per Exhibit II The Police placed a charge sheet under Section 179 I P C in Criminal Case no 108 of 1940-41 before the Special First Class Magistrate of Hassan after -

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resided and therre was a direction to the President (the second defendant) that he should take the explanation of the plaintiff ardxxxxkx submit a report The second defendant went to the spot, went inside the house of Siddaramappa and also went inside the house of theplaintiff and inspected According to him, he found the existence of three taps in the plaintiff's house, one in the kitkkkx kitchen, one in the bath room and one in the backyard and water was coming out from eeeh each of them The plaintiff had no explanation to offer as to why he took water without taking the permission of the Municipality Even in his letter of explanation Exhibit VI the plaintiff did not specifically refer to the water connection or the water in his own house The second defendant, as President of the Municipality

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It is also alleged that the charge of theft levelled against the plaintiff was false to the knowledge of the second defendant and it was malicious Before preferring the complaint to the police as per Exhibit II it is in evidence that a report of the Sanitary Inspector was called on the report made as per Exhibit I The Sanitary Inspector's report is Exhibit I-a No further orders were passed on the report Exhibit I-a by the President the second defendant. The Deputy Commissioner, Hassan District, happened to inspect the Municipality of Arsikere on 21/10/40 His notes of inspection is marked Exhibit VII It was noticed there that it appeared from the Sanitary Inspector's report dated 14/10/40 a house connection had been unauthorisedly given to the very house in which the Vice President (the plaintiff) resided

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Municipality, caused legal opinion taken as to - whether Prosecutions in respect of unauthorised water tap connections could be launched against persons who had taken connections without permission from the Mugiciapality This was on 16/11/1940. Legal opinion wasreceived wherein 75 Indian cases 159 was referred to The date of the legal - opirion cannot be made out. It was thereafter that the second defendant made a complaint as per Exhibit II to the Police He has further sworn that he was satisfied that the Municipal water was being taken by the plaintiff without permission before he gave the complaint Exhibit II

3 The plaintiff wasno doubt acquitted by the order of the High Court as per Exhibit D The arguments addressed by the learned Counsel for the appellant were practically the points noticed in

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in Exhibit D as entitling the appellant plaintiff to be acquitted and that the necessary ingredients to convict the accused of the theft had not been Rs established by the Prosecution One some of the points which went in favour of the plaintiff in the criminal case for securing his acquittal, it may be observed by his own admissions in the witness-box, the plaintiff was made to clarify the position by no means to his advantage He has admitted that permission of the Municipality had to be taken for taking water in the pipe line and that even public bodies have taken water with the permission of the Municipality as per Municipal Resolution Exhibit III-a He has clearly admitted that he thought of taking water after he obtained - permission of the Municipality, his case being

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THREE ANNAS
THE MAHARAJA OF MYSORE

beingk that water wasnot coming into his taps at all, a version which is certainly not liable to be believed in the version to the contrary given by the Amildar the second defendant who has xx stated that kn the taps in the kitchen, bath-room and the back-yard water was coming when he went and inspected the plaintiff's house By his admission that he had not applied for permission from the Sanitary Department for taking, he has supplied the lacuna, which was noticed by the High Court, in the Prosecutioncase. By making a clear admission that the permission - given to Siddaramappa was only for fitting his house with water system he practically ruled out the possibility of having x had an implied permission for the water system which he himself enjoyed, a point which was observed by the High Court in setting

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setting aside the conviction Having regard to all these features forthcoming in this case, it may be that the evidence forthcoming in the criminal case was not sufficient to - substantiate a criminal charge or to sustain a - corviction, in my opinion, it cannot be said that the complaint itself was groundless or was instituted without reasonable and probable cause Having regard to the evidence forthcoming in this case and adverted to by him, the innocense of the appellant of the charge levelled against him does not by any means emerge, considering the question in the light of observations contained in 24 Mysore Chief Court Report 335

4 If it cannot be held in this case that there was absence of reasonable and probable cause, as, in my opinion, it cannot be so held, even though

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though any impro-per motive existed on the part of the person instituting the proceedings, he will not be liable As a matter of fact, there is in this ca-e no proof of existence of any ex improper motives on the part of the second defendant charged with having instituted the proceedings, any motive other than that of bringing a guilty party to justice No private ill-will or misunderstandings between the second defendant and himself is referred to by the plaintiff as might have actuated his action It is seen that after he placed the matter in the hands of the Police, the second defendant practically left the station and had nothing more to do with the complaint It was submitted that the second defendant did not place this matter before the council before he took action. It is not clear that on a matter

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matter like this, the opinion of the council is to be taken by the President of the Municipality and this wasnot shown as being the proper procedure to be adopted It is seen that therehas been the interposition of the investigation by the - Police before the charge sheet was placed By this circumstance the question of the liability of the second defendant becomes more remote than if he had directly instituted proceedings before the Magistrate (Vide observations in 23 Mysore Law Journal 166) Not this his liability will not arise at all even if the Police undertook the investigation and further proceedings and filed the charge sheet If it can be found that the charge which set the Police in motion was false to the knowledgeof the complainant and if he took further part by bringing suborned

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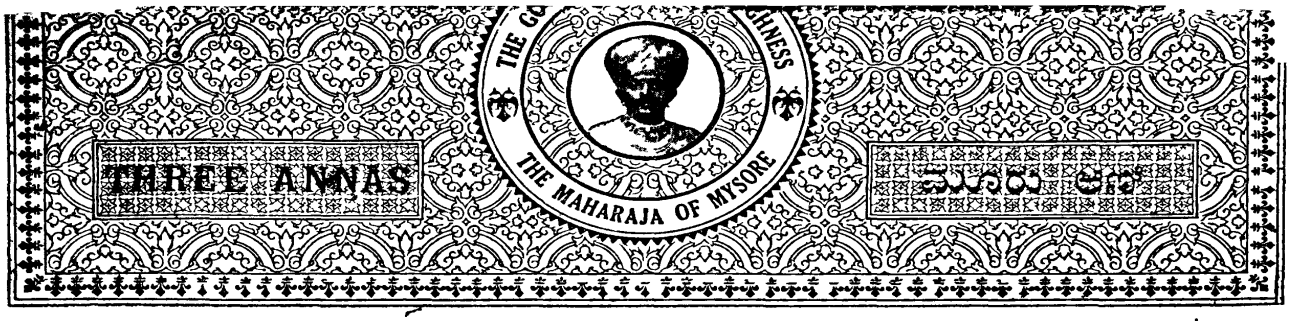

suborned witnesses to support the chafge and in anyway acted in sending an innocent man for trail berore the magistrate he could certainly not escape from liability

5 For all the foregoing reasons, I must agree with the findings and conclusions arrived at by the learned Subordinate Judge and hold that the plaintiff has failed to establish any malice or want of reasonable and probable cause in either of the defendants in launching the - Prosecution against him I must accordingly hold that the appellant is not entitled to succed in this appeal The appeal is accordingly ordered to be dismissed with costs

Dictated to the stenographer and pronounced in open Court on the 30th day of June 1946

"True copy" Sd) L Venkataramanayya
B.O. District Judge
30/6/46
Head Record Keeper 23/7/46

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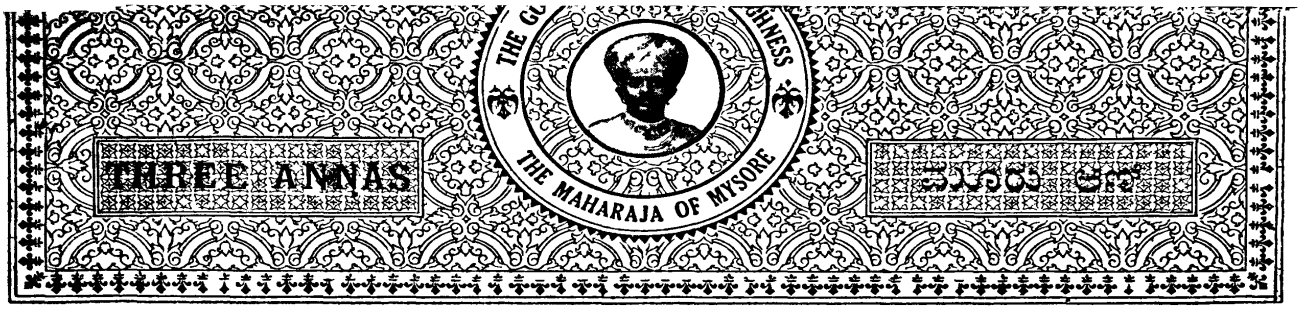

Decree in appeal. Order 41 Rule 35 Form No. 66

C i v i l.

In the court of the District Judge at Mysore.

Regular appeal No. 257 of 1944-45

Appellant :- Kolla Narasimhasetty son of Kola Kencha-raya setty aged about 48 years, Vysya by caste, resident of Arsikere, Hassan District Plaintiff

Versus

Respondents - 1. The Town Municipal Council Arsikere

2 Mr D S. Raghavendrachar, son of Mr S Srinivasachar, aged 33 Secretary stores Purchase committee, Bangalore

Defendants

Appeal from the decree of the court of the The additional subordinate Judge ~~Mysore~~ Hassan dated 31st day of January 1945 in Original suit No 20 of 1942-43

Memorandum of appeal was filed on 31/3/1945

Kola Narasimhasetty Plaintiff

Vs

The Town Municipal counsel.
2. Mr. D.S.Raghavendrachar. ------- Defendants.

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The appellant above named appeals to the District Judge's court at Mysore from the decree of the Sub-ordinate Judge, Hassan in Original suit No 20 of 1942-43 dated 31st day of January 1945 for the following among other reasons namely -

The learned subordinate Judge erred in finding that the prosecution of the appellant in C C No 108 of 40-41 was not brought about by the defendant maliciously He has ignored the plentiful material in the suit that would irresistably lead to that conclusion

Thes appeal coming on for hearing on the 29th day of June 1946 before L Venkataramanayya, Esquire B.A.LL B., District Judge in the presence of Mr S Chinnaswami setty for the appellant and of Mr B Ramarao for the first respondent and of Mr T Rangaswamiengar for the second respondent

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THREE ANNAS
THE MAHARAJA OF MYSORE

It is ordered and decreed that this appeal be and hereby is dismissed with costs

The costs of this appeal as detailed below amounting to Rs. 150/- are to be paid by the appellant-plaintiff to each of the respondents-defendants

Given under my hand and the seal of this court this 30th day of June 1946

Sd/-L Venkataramanayya,
District Judge

Memorandum of costs incurred in this appeal :-

	By the applt-Plfts	by the 1st rept-dft.	By the 2n rspt-2 dft
Value of the appeal Rs 3000/-			
Court fee on memo of appeal	225-0-0	--	--
Application.	--	--	--
Power of attorney	0-8-0	--	--
Processes.	1-4-0	--	--

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Copies of decree & judgment	1-10-0	--	--
Advocat-'s fee.	F C not filed.	150/	150/-
Fees for fopying or translation	8-4-0	---	---
Total Rs	236-10-0	150/-.	150/

Id L V
District Judge

"True Copy"

B O
Head Record Keeper 23/7/46

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GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF

No L 1361

No L 15756/d 10547

To
The Secretary - S P C
Central Irrova Buildings Blore

Subject - Case files by Mr. K Varanasika Selty against the Brahmins of Nanjanagudu

Sir
With Reference to your
O O note of 10 a my forwarding for payment the legal Remuneration Bill & Brief Costs claimed by the Govt pleader, Mysore on the above account, I am directed to Request you to send a Copy of letter no L 1132/md 144-45 2 of 15 8 45 referred to in your note as the Same is not readily traceable in Our Office

I have the
Hon Res Secy
12/8/47

Ml 6-46-23

Please refer to this Office Indent No in all your correspondence

GOVERNMENT OF MYSORE

STORES PURCHASE COMMITTEE

Tel Address STORESEC
Code Bentley s

OFFICE OF THE SECRETARY STORES PURCHASE COMMITTEE
Un t d India Bu lding Sri Na asimha aja R ad

No S P. C 31349/Enel/1 *Bangalore City, dated* 27th May 1947.
(S India) 28

To

The Secretary to Government of
His Highness the Maharaja of Mysore,
Revenue Department,
Bangalore

GEN & REV SECTT
9658
31 MAY 1947

Sir,

Re Case filed by Mr. K. Narasimha Setty against the Arsikere Town Municipality

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With reference to your letter No L.15756 dated 16-5-1947, I am directed to forward herewith copy of letter No.L 1132/ml 144-45-2 dated 15-8-1945 from the Additional Secretary to Government addressed to the Deputy Commissioner, Hassan District, relating to the above case.

I have the honour to be,
Sir,
Your most obedient servant

Secretary,
Stores Purchase Committee

Jcopies No 1361/E2
1747
Jo ML6-46-24
One by Coomaraswamy

Skeech Case filed by Mr K Navaneethakrishnan against the Mankere town municipality

Sir,

I am directed to forward herewith a copy of letter no 175 dated 8.9.46 addressed by the Govt pleader, Mysore, to the Secretary, S.P.C. together with the Legislative Council Remembrancer's account claimed by him for appearance in the above case, and to request that arrangement may be made to pay the fee of Govt

Please Copy Copy of Flag 'A'

pleaders oath of the Judge of the
Avankere Town Municipal Council
as per instructions conveyed in
this office letter No L 1132/ml 1144-45 dated
dated 15 & 45 A.g. No above Search
of Mr K Narayanaswamy has
been dismissed with Costs, the
amount awarded by the Council
may be Recovered from Mr.
Narayanaswamy and credited to
the Municipal funds

I have the

3/7/47
Rec Secy

Memo L 1362 dt 7/7/47

Copy forwarded to the Secy Spl
for information with Reference to
Correspondence ending with his letter
No Spl 31349 dt 27/28-5-47

By order
Rec Secy

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No L 1361

General and Revenue Secretariat,

Dated Bangalore, 22nd July *19* 47

FROM

The Secretary to the Government of
His Highness the Maharaja of Mysore

To Revenue Department.

The Deputy Commissioner,
Hassan District, HASSAN.

SIR,

Subject:- Case filed by Mr. K. Narasimhasetty against the Arasikere Town Municipality.

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I am directed to forward herewith a copy of letter No.175 dated 8-9-1946 addressed by the Government Pleader, Mysore, to the Secretary, Stores Purchase Committee together with the relative bills, in original of remuneration and cost claimed by him for his appearance in the above case and to request that arrangements may be made to pay the bills of the Government Pleader out of the funds of the Arasikere Town Municipal Council as per instructions conveyed in this office letter No L.1132/M1.144-45-2 dated 15-8-1945. As the above suit of Mr K.Narasimhasetty has been dismissed with costs, the amount awarded by the Court may be recovered from Mr.Narasimha-Setty and credited to the Municipal Funds.

I have the honour to be,
S i r,
Your most obedient servant,

(Sd) Syed Abdul Aleem,
REVENUE SECRETARY TO GOVERNMENT

MEMO NO L 1362

Bangalore, Dated, the 22nd July 1947.

Copy of the above, is forwarded, to the Secretary, Stores Purchase Committee, Bangalore, for information, with reference to the correspondence ending with his letter No S P,C 31349 dated 27/28-5-1947

By Order,

for REVENUE SECRETARY TO GOVERNMENT.

SKG)2